

ALVIN ROBINSON,
and
LINDA ROBINSON,

Plaintiffs,

v.

D. W. DAVIS,
and
CHRISTOPHER PARKER,

Defendants.

V.

Defendant D. W. Davis, by counsel, moves for reconsideration of the Court's order of May 17, 2016 (Docket No. 35), denying Defendant's Motion for Summary Judgment and for extension of time for briefing and hearing pursuant to Rule 6(b)(1)(B) of the Federal Rules of Civil Procedure, and in support thereof, states as follows:

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2. Counsel for Defendant Davis was admitted to practice in this Court in 1982 and has practiced in the Danville Division since. In complying with the Court's order regarding briefs, counsel has understood that the requirement for filing a brief in response is 14 days and did not realize that the three day extension of Rule 6 applied under the terms of the Court's order. In the era of ECF in which counsel are served with filings immediately by email, counsel for Defendant Davis neglected to account for the three days. Counsel submits that the neglect was excusable in light of the terms of the order; receipt by opposing counsel of the motion and memorandum on May 13; and his previous practice in this Court.

3. Consideration of Davis' motion for summary judgment based on qualified immunity will be beneficial to the Court and the parties from an efficiency and economy standpoint for several reasons. First, if the Court grants the motion, it will enhance judicial economy and shorten or eliminate a three-day jury trial. Second, it will save counsel for both parties considerable expense in preparing for the trial. Third, even if the Court does not grant the motion, consideration of the motion will likely narrow the issues and likely shorten the trial.

4. Given the purposes of qualified immunity, Defendant Davis respectfully requests that the Court consider the motion for summary judgment on brief or with oral argument so that Defendant is not deprived of the opportunity to present the defense by counsel's misapplication of Rule 6 of the Federal Rules of Civil Procedure to the Court's pretrial order.

WHEREFORE, Defendant D. W. Davis respectfully moves the Court to reconsider the order denying his motion for summary judgment based on its filing time and extend the time for consideration of the motion for summary judgment based upon qualified immunity.

D. W. DAVIS

By: /s/Jim H. Guynn, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that I have this 18th day of May, 2016, electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to:

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